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McCARTHY & HOLTHUS, LLP
David C. Scott, Esq. (SBN: 225893)
Rachel Opatik, Esq. (SBN: 243140)
1770 Fourth Avenue
San Diego, CA 92101
Telephone: (619) 685-4800
Facsimile: (619) 685-4811
Email: dscott@mccarthyholthus.com
ropatik@mccarthyholthus.com

Attorneys for Defendant,
Bank of America, N.A. and Quality Loan Service Corp.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ROCIO PINEDA,

Plaintiff,

v.

BANK OF AMERICA, N.A. formally
doing business as GREENPOINT
MORTGAGE FUNDING;
QUALITY LOAN SERVICE CORP;
and DOES 1 through 50 inclusive

Defendants.

Case No.

Superior Court of California, County of
San Bernardino

Superior Court Case No:
CIVDS 1106684

NOTICE OF REMOVAL
[28 U.S.C. § 1446(d)]

VAP (SPX)

McCARTHY & HOLTHUS, LLP
ATTORNEYS AT LAW
1770 FOURTH AVENUE
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 685-4800 FACSIMILE (619) 685-4811

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA, AND ALL PARTIES AND
THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, Defendants
BANK OF AMERICA N.A. ("BAC") and QUALITY LOAN SERVICE CORP.
("QUALITY") (collectively, "DEFENDANTS") hereby remove the above
captioned action from the Superior Court of California, County of San Bernardino,
to the United States District Court for the Central District of California.
DEFENDANTS are entitled to removal based on federal question jurisdiction, as
follows:

McCARATHY & HOLTHUS, LLP
ATTORNEYS AT LAW
1770 FOURTH AVENUE
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 685-4800 FACSIMILE (619) 685-4810

1 1. On May 25, 2011, an action was commenced against Defendant in the
2 Superior Court of California, County of San Bernardino, entitled *Rocio Pineda vs.*
3 *Bank of America, N.A., et al.* as Case No. CIVDS 1106684. A true and accurate
4 copy of the Complaint in the State Court Action is attached hereto as Exhibit "A."

5 2. This Court has jurisdiction over this matter under 28 U.S.C. § 1331
6 because Plaintiffs' claims arise under the laws of the United States. The Supreme
7 Court has held that "a case 'arose under' federal law where the vindication of a
8 right under state law necessarily turned on some construction of federal law."
9 Franchise Tax Bd. v. Construction Laborers Vacation Trust, 463 U.S. 1, 9 (1983).
10 Plaintiffs allege in their Seventh Cause of Action that DEFENDANTS have
11 violated TILA (Complaint ¶¶ 66-71) Accordingly, this case turns upon federal
12 questions, and this Court has jurisdiction.

13 3. The State Court Action was filed on May 25, 2011. This Notice of
14 Removal is being filed within 30 days of the filing of the Complaint and, thus,
15 within 30 days of the date on which DEFENDANTS could have been served in the
16 State Court Action. Removal, therefore, is timely in accord with 28 U.S.C.
17 §1446(b).

18 4. Pursuant to 28 U.S.C. § 1367(a), the Court has supplemental
19 jurisdiction over Plaintiffs' state and common law claims. It is well-settled that
20 federal district courts have supplemental jurisdiction over state law claims that
21 share a "common nucleus of operative facts" with a Federal claim. City of Chicago
22 v. International College of Surgeons, 522 U.S. 153, 164-65 (1997). Plaintiffs' state
23 and common law claims form part of the same case or controversy and,
24 accordingly, arise out of a common nucleus of operative facts.

25 5. Removal to this district court is proper because this is the district that
26 embraces the county in which Plaintiff filed the state court action. 28 U.S.C. §
27 1441(a).

28 ///

7. As required by 28 U.S.C. §1446(d), Defendant will provide written notice of removal of this action to Plaintiff and the San Bernardino County Superior Court.

By this Notice of Removal and the associated attachments, DEFENDANTS do not waive any objections that they may have as to service, jurisdiction or venue, or any other defenses or objections that they may have to this action. DEFENDANTS intend no admission of fact, law or liability by this Notice, and expressly reserve all defenses, motions, and/or pleas.

WHEREFORE, DEFENDANTS pray that the above action now pending against them in the Superior Court of California, County of San Bernardino as Case Number CIVDS1106684 be removed to this Court and that this Court assume jurisdiction over the action and determine it on the merits.

Respectfully submitted,
McCARTHY & HOLTHUS, LLP

By: /s/ David Scott
David C. Scott, Esq.
Rachel Opatik, Esq.
Attorneys for Defendants,
Bank of America, N.A. and Quality Loan
Service Corp.

EXHIBIT A

1 ROCIO PINEDA
2 7946 DRAKE STREET
3 FONTANA, CA 92336
4 TELEPHONE NO. (562) 965-2034

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 25 2011

By *Rocio Pineda*
Deputy

6 PLAINTIFF IN PRO PER

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **IN AND FOR COUNTY OF SAN BERNARDINO**

11 ROCIO PINEDA ,

12 Plaintiff,

14 V.

15 BANK OF AMERICA, N.A. formally doing
16 business as GREENPOINT MORTGAGE
17 FUNDING ;, QUALITY LOAN SERVICE
CORP;, and DOES 1 through 50 inclusive

18 Defendants,

CASE NO: **CIVDS 1106684**

**COMPLAINT FOR:
MONETARY DAMAGES
STATUTORY DAMAGES, PUNITIVE
DAMAGES, INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

1. VIOLATION OF *CALIFORNIA CIVIL CODE* §2923.5;
2. FRAUD;
3. INTENTIONAL MISREPRESENTATION;
4. VIOLATION OF *CALIFORNIA CIVIL CODE* §2923.6;
5. VIOLATION OF *CALIFORNIA CIVIL CODE* §1572;
6. VIOLATION OF *BUSINESS AND PROFESSIONS CODE* §17200.
7. FEDERAL TRUTH IN LENDING ACT;

24 Plaintiff ROCIO PINEDA an (Hereinafter referred as "Plaintiff") alleges herein as
25 follows:
26
27
28

GENERAL ALLEGATIONS

- 1
2 1. Plaintiff at all times relevant has been a resident of the County of San Bernardino,
3 State of California and the owner of Real Property, including but not limited to the
4 property at issue herein, 7946 DRAKE STREET, FONTANA, CA 92336.
5
- 6 2. Defendant BANK OF AMERICA, N.A. formally doing business as GREENPOINT
7 MORTGAGE FUNDING (hereinafter "BOFA") at all times herein mentioned was
8 doing business in the County of San Bernardino, State of California and was one of the
9 original Lender for Plaintiff's Deed of Trust Deed and Note.
10
- 11 3. Defendant QUALITY LOAN SERVICE CORP., (hereinafter "QUALITY") at all
12 times herein mentioned is doing business in the County of San Bernardino, State of
13 California and was listed on the Notice of Default and Notice of Trustee Sale for the
14 above named Real Property.
15
- 16 4. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
17 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious
18 names and all persons unknown claiming any legal or equitable right, title, estate, lien,
19 or interest in the property described in the complaint adverse to plaintiff's title, or any
20 cloud on Plaintiff's title thereto. Plaintiff will amend this complaint to allege their true
21 names and capacities when ascertained.
22
- 23 5. Plaintiff is informed and believes and thereon alleges that, at all times herein
24 mentioned each of the defendants sued herein was the agent and employee of each of
25 the remaining defendants. Plaintiff alleges that each and every defendant alleged herein
26 ratified the conduct of each and every other defendant. Plaintiff further alleges that at
27
28

all times said defendants were was acting within the purpose and scope of such agency and employment.

6. Plaintiff financed the foregoing Real Property on or about March 5, 2007 through BOFA, by virtue of a Trust Deed and Notes securing the Loans. (See Exhibit "A")
7. Plaintiffs further allege that on or about March 2, 2010 Defendants allege that Plaintiffs became in default of their loan. (See Exhibit "B") However the Declaration of Due Diligence that is required to be attached to the Notice of Default is missing pursuant to *California Civil Code* §2923.5, therefore making the Notice of Default void.
8. Plaintiff further alleges on information and belief that none of these alleged beneficiaries or representatives on the Notice of Default and/or Notice of Trustee's Sale can prove that they have the authority to conduct the foreclosure. Furthermore, the Defendants listed on the Notice of Default and/or Notice of Trustee's Sale were never assigned the rights under this Deed of Trust to conduct a valid foreclosure sale.
9. Plaintiff further alleges that the foreclosure sale of the Subject Property due to the failed notices and unauthorized parties was not executed in accordance with the requirements of *California Civil Code* §2924, §2923.5 and §2923.6.
10. Plaintiff alleges that Defendants, and each of them, are engaged in and continue to engage in violations of California law including but, not limited to: *California Civil Code* §2924, §2923.5 and §2923.6, and unless restrained will continue to engage in such misconduct, and that a public benefit necessitates that Defendants be restrained from such conduct in the future.

I.

FIRST CAUSE OF ACTION VIOLATION OF CALIFORNIA CIVIL CODE §2923.5 (Against all Defendants)

1
2 11. Plaintiff repeats and re-alleges Paragraphs 1 through 10 as though fully set forth
3 herein.

4 12. Defendants cannot prove that the non-judicial foreclosure which has commenced,
5 strictly complied with the tenets of *California Civil Code* §2923.5 and §2924 in order
6 to maintain an action for possession.

7
8 13. The California Legislature passed Senate Bill 1137, impacting residential mortgage
9 lenders, foreclosure procedures and eviction procedures. This law is effective
10 immediately and extends on to January 1, 2013. The Statute amends provisions of the
11 non-judicial foreclosure procedures found in California Code of Civil Procedure
12 §2924, by adding requirements for meetings, due diligence, and notification of
13 counseling. The primary purpose for the Statute is foreclosure procedures and imposes
14 an unprecedented duty upon lenders relating to contact with borrowers.
15

16 **California Civil Code §2923.5**

17
18 14. As September 6, 2008, *California Civil Code* §2923.5 applies to loans made from
19 January 1, 2003, to December 31, 2007, and loans secured by residential real property
20 that are for owner-occupied residences. For purposes of *California Civil Code*
21 §2923.5, "owner-occupied" means that the residence is the principal residence of the
22 borrower. Prior to filing a Notice of Default, *California Civil Code* §2923.5 provides
23 in pertinent part:
24

25 (a) (1) A trustee may not file a notice of default pursuant to Section 2924 until 30
26 days after contact is made as required by paragraph (2) or 30 days after
27 satisfying the due diligence requirements as described in subdivision (g). In
28 either case, the borrower shall be provided the toll-free telephone number
made available by the United States Department of Housing and Urban

1 Development (HUD) to find a HUD-certified housing counseling agency. Any
2 meeting may occur telephonically.

3 (2) An authorized agent shall contact the borrower in person or by telephone in
4 order to assess the borrower's financial situation and explore options for the
5 borrower to avoid foreclosure. During the initial contact, the mortgagee,
6 beneficiary, or authorized agent shall advise the borrower that he or she has
7 the right to request a subsequent meeting and, if requested, the mortgagee,
8 beneficiary, or authorized agent shall schedule the meeting to occur within 14
9 days.

10 **Lender in this case did not provide a toll-free telephone number to Plaintiff. Plaintiff**
11 **was never contacted to assess their financial situation and was not given any options**
12 **in order to avoid foreclosure. Plaintiff would have requested a meeting at their home**
13 **within 14 days if they had been advised of that option.**

14 (b) A notice of default filed pursuant to Section 2924 shall include a declaration
15 from the mortgagee, beneficiary, or authorized agent that it has contacted the
16 borrower, tried with due diligence to contact the borrower as required by this
17 section, or the borrower has surrendered the property to the mortgagee,
18 trustee, beneficiary, or authorized agent.

19 **The required declaration is missing/improper. The declaration does not contain a**
20 **penalty of perjury clause and there is no evidence on the face of the Notice of Default**
21 **as to whether the declarant had any personal knowledge concerning any contact**
22 **made to Plaintiff. (See infra)**

23 (c) If a mortgagee, trustee, beneficiary, or authorized agent had already filed the
24 notice of default prior to the enactment of this section and did not subsequently
25 file a notice of rescission, then the mortgagee, trustee, beneficiary, or
26 authorized agent shall, as
27 part of the notice of sale filed pursuant to Section 2924f, include a declaration
28 that
29 either:

30 (1) States that the borrower was contacted to assess the borrower's financial
31 situation and to explore options for the borrower to avoid foreclosure.

32 (2) Lists the efforts made, if any, to contact the borrower in the
33 event no contact was made.

1 15. Furthermore *California Civil Code* §2923.5(g) provides that a borrower not contacted
 2 by a mortgagee, beneficiary, or authorized agent despite “due diligence” shall mean all
 3 of the following:

4 (1) A mortgagee, beneficiary, or authorized agent shall first attempt to contact
 5 a borrower by sending a first-class letter that includes the toll-free telephone
 6 number made available by HUD to find a HUD-certified housing counseling
 7 agency.

8 (2) (A) After the letter has been sent, the mortgagee, beneficiary, or
 9 authorized agent shall attempt to contact the borrower by telephone at least
 10 three times at different hours and on different days. Telephone calls shall be
 11 made to the primary telephone number on file.

12 (B) A mortgagee, beneficiary, or authorized agent may attempt to contact
 13 a borrower using an automated system to dial borrowers, provided that, if the
 14 telephone call is answered, the call is connected to a live representative of the
 15 mortgagee, beneficiary, or authorized agent.

16 (C) A mortgagee, beneficiary, or authorized agent satisfies the telephone
 17 contact requirements of this paragraph if it determines, after attempting contact
 18 pursuant to this paragraph, that the borrower's primary telephone number and
 19 secondary telephone number or numbers on file, if any, have been
 20 disconnected.

21 (3) If the borrower does not respond within two weeks after the telephone call
 22 requirements of paragraph (2) have been satisfied, the mortgagee, beneficiary,
 23 or authorized agent shall then send a certified letter, with return receipt
 24 requested.

25 (4) The mortgagee, beneficiary, or authorized agent shall provide a means
 26 for the borrower to contact it in a timely manner, including a toll-free telephone
 27 number that will provide access to a live representative during business hours.

28 **The mortgagee, beneficiary, or authorized agent never complied with the provisions
 of §2923.5(g) of *California Civil Code* in its entirety as proscribed.**

16. Plaintiff is informed and believes and thereupon alleges that the Notice of Default was
 invalid and unenforceable due to the intentional and willful violations including but,
 not limited to failing and/or refusing to mail the Notice of Default within ten business
 days to Plaintiffs, to post and mail the Notice of Default within one month, to properly

1 set the sale date, to publish the Notice of Sale twenty days prior to the date set for sale,
 2 and to record the Notice of Sale as required by *California Civil Code* §2924.

3 17. Defendants did not fully comply with *California Civil Code* §2923.5 and therefore the
 4 Notice of Default is VOID. Thus if the property is sold in a non-judicial foreclosure,
 5 the procedure is void.
 6

7
 8 **Invalid Declaration on Notice of Default and/or Notice of Trustee's Sale**

9 **PENALTY OF PERJURY**

10 18. The purpose of permitting a declaration under penalty of perjury, in lieu of a sworn
 11 statement, is to help ensure that declarations contain a truthful factual representation
 12 and are made in good faith. (*In re Marriage of Reese & Guy*, 73 Cal. App. 4th 1214, 87
 13 Cal. Rptr. 2d 339 (4th Dist. 1999).
 14

15 19. In addition to *California Civil Code* §2923.5, *California Code of Civil Procedure*
 16 §2015.5 states:
 17

18 Whenever, under any law of this state or under any rule, regulation, order or
 19 requirement made pursuant to the law of this state, any matter is required or
 20 permitted to be supported, evidenced, established, or proved by the sworn
 21 statement, **declaration**, verification, certificate, oath, or affidavit, in writing of
 22 the person making the same, such matter may with like force and effect be
 23 supported, evidenced, established or proved by the unsworn statement,
 24 **declaration**, verification, or certificate, in writing of such person which recites
 25 that is certified or **declared by him or her to be true under penalty of**
 26 **perjury**, is subscribed by him or her, and (1), if executed within this state,
 27 states the date and place of execution; (2) if executed at any place, within or
 28 without this state, states the date of execution and that is so certified or
 declared under the laws of the State of California. The certification or
 declaration must be in substantially the following form:

(a) If executed within this state:

"I certify (or declare) under penalty of perjury that the foregoing is true and
 correct":

 (Date and Place)

 (Signature)

1
2 For our purposes we need not look any farther than the Notice of Default to
3 find the declaration is missing and therefore there is no signature under penalty of
4 perjury; as mandated by new Civil Code §2923.5(c). Therefore, the Notice of
5 Default is VOID.
6

7
8 **LACK OF PERSONAL KNOWLEDGE OF DECLARANT**

9 20. An affidavit on behalf of a corporation must show that it was made by an authorized
10 officer or agent, and the officer him or herself must swear to the facts. Furthermore, a
11 person who verified a pleading is required to have personal knowledge or reasonable
12 cause to believe the existence of the facts stated therein. Here, the Declaration for the
13 Notice of Default by the agent does not state if the agent has personal knowledge and
14 how he obtained this knowledge.
15

16 21. The proper function of an affidavit is to state facts, not conclusions, and affidavits that
17 merely state conclusions rather than facts are insufficient. An affidavit must set forth
18 facts and show affirmatively how the affiant obtained personal knowledge of those
19 facts. The Notice of Default does not have the required agent's personal knowledge of
20 facts and if the Plaintiff borrower was affirmatively contacted in person or by
21 telephone to assess the Plaintiff's financial situation and explore options for the
22 Plaintiff to avoid foreclosure. Simply put, the declaration was missing all together.
23

24 22. Plaintiff alleges that Defendants, and each of them, willfully, wrongfully and without
25 justification, and without privilege have threatened to commence an invalid foreclosure
26
27
28

1 sale against the Plaintiff's SUBJECT PROPERTY, thereby, slandering Plaintiff's title
2 thereto.

3 23. Furthermore, The California Foreclosure Prevention Act, which became effective June
4 15, 2009, delays the non-judicial foreclosure process by requiring an addition 90-day
5 delay (beyond the current three-month period) between recording a notice of default
6 and a notice of stay for certain residential properties. The law applies to:

- 7
8 1. Loans recorded between January 1, 2003 and January 1, 2008, inclusive,
9 2. The borrower occupies the property as his/her principal residence and occupied it
10 at the time the loan became delinquent;
11 3. A notice of default has been recorded on the property; and
12 4. The loan is secured by a first lien on residential property that is located in
13 California.

14 24. In this case, Plaintiff's property was her principal place of residence and her deed was
15 dated on March 5, 2007. Therefore, the California Foreclosure Prevention Action
16 applies and they should be allowed an additional 90 days (plus the three-month period
17 already) after Notice of Default is recorded.

18
19 **II.**
20 **SECOND CAUSE OF ACTION**
21 **FOR FRAUD**
22 **(Against all Defendants)**

23 25. Plaintiff repeats and re-alleges Paragraphs 1 through 24 as though fully set forth
24 herein.

25 26. On or about March 5, 2007, Plaintiff obtained a loan through BOFA, to finance her
26 home. (See Exhibit "A"). On or about March 2, 2010, Defendant QUALITY purported
27 to execute a Notice of Default.

28 27. Plaintiff has recently learned that Defendant QUALITY listed on the Notice of Default

1 and Notice of Trustee's Sale are not the legal owners of the Note and Deed of Trust
2 and were not at the time they will issue the notices and commenced the foreclosure
3 process, notwithstanding the fact that the note was not negotiable and did not contain a
4 valid power of sale and also was void due to the missing/invalid Declaration of Due
5 Diligence.
6

7 28. The Note executed by Plaintiff was no longer a negotiable instrument because the
8 assignment was not physically applied to the Note pursuant to the holding of Pribus v.
9 Bush, (1981) 118 Cal.App.3d 1003, 173 Cal.Rptr. 747, although there was sufficient
10 room on the back of the Note to complete the assignment, and as such the foreclosure
11 of Plaintiff's subject property was void.
12

13 29. In addition, *California Civil Code* §2932.5 governs the Power of sale under an assigned
14 mortgage, and provides that the power of sale can only vest in a person entitled to
15 money payments:
16

17 "Where a power to sell real property is given to a mortgagee, or other encumbrancer, in
18 an instrument intended to secure the payment of money, **the power is part of the**
19 **security** and vests in any person who **by assignment becomes entitled to payment of**
20 the money secured by the instrument. The power of sale may be exercised by the
21 assignee if the assignment is duly acknowledged and recorded."
22

23 30. Defendants have no standing to enforce a non-judicial foreclosure. Defendants are
24 strangers to this transaction, and have no authority to go forward with the foreclosure
25 and Trustee's Sale because an assignment was not acknowledge or recorded.
26

27 31. *Uniform Commercial Code* §3-301 states that the "person entitled to enforce an
28 instrument" is either the holder of the instrument or a non-holder in possession of the

1 instrument who has the rights of a holder. Furthermore, §3-302 states that a "holder in
2 due course" is not a person who acquired rights of an instrument by legal process or by
3 purchase in an execution, bankruptcy, or creditor's sale or similar proceedings.

4 32. Plaintiff executed a Promissory Note (hereinafter the "Note") and a Deed of Trust to
5 BOFA (See Exhibit "A"). GREENPOINT MORTGAGE FUNDING and or Defendant
6 BOFA is the Lender and only party entitled to enforce the Note and any security
7 interest with it.
8

9 33. Defendant QUALITY is not listed anywhere in the Deed of Trust or Promissory Note.
10 (See Exhibit "A")
11

12 34. The San Bernardino Recorder's Office does not contain any evidence of a recorded
13 assignment from GREENPOINT MORTGAGE FUNDING and or BOFA.

14 35. As a result, the power of sale may not be exercised by any of the Defendants since
15 there was never an acknowledged and recorded assignment pursuant to *California Civil*
16 *Code* §2932.5. Furthermore, Defendant QUALITY has no lawful security interest in
17 the subject property.
18

19 36. Plaintiff alleges that Defendants, and each of them, falsely misrepresented that the
20 Notice of Default was validly executed, that they intended to induce Plaintiffs into
21 relying on the misrepresentation, that they knew at the time they made these
22 representations to Plaintiffs that they were untrue, and defendants know at the time that
23 they were attempting to foreclose on Plaintiffs' Trust Deeds and notes that they had no
24 right to do so.
25

26 37. Plaintiff alleges that due to their reliance on Defendants representations he has been
27 damaged in an amount that currently exceeds \$25,000.00 and additionally costs of
28

1 moving out of Plaintiffs' property and the costs to relocate back to the subject Property.

2 38. Plaintiff alleges Defendants BOFA and QUALITY intentionally and fraudulently
3 converted Plaintiffs' right, title and interest to his property, and any equity therein.
4 Defendants' willful deceit was with intent to induce Plaintiff into believing they had
5 authority to start the foreclosure process by recording a false document. (See infra)
6

7 39. Defendants' conduct as set forth above was intentional, oppressive fraudulent and
8 malicious so as to justify an award of punitive damages in an amount sufficient that
9 such conduct will not be repeated.

10 Recording a False Document

11
12 40. The Notice of Default states, "That by reason thereof, the present beneficiary under
13 such deed of trust, has *executed and delivered to said agent, a written Declaration of*
14 *Default and Demand for same, and has deposited with said agent such Deed of Trust*
and all documents evidencing obligations secured thereby"

15 However, Defendants do not have the original promissory note, nor do they provide
16 any documents evidencing obligations secured thereby.

17 41. Furthermore, according to *California Penal Code* §115 in pertinent part:

18 (a) Every person who knowingly procures or offers any false or forged instrument
19 to be filed, registered, or recorded in any public office within this state, which
20 instrument, if genuine, might be filed, registered, or recorded under any law of this
21 state or of the United States, is guilty of a felony.

22 (b) Each instrument which is procured or offered to be filed, registered, or recorded
23 in violation of subdivision (a) shall constitute a separate violation of this section.

24 In addition, *California Evidence Code* §669 states in pertinent part:

25 (a) The failure of a person to exercise due care is presumed if:
(1) He violated a statute, ordinance, or regulation of a public entity;

26 Here, as stated above the Declaration of Due Diligence as required by Section
27 2923.5 of the California Civil Code is missing and/or improper for the Notice of
28 Default. Therefore, Defendants BOFA and QUALITY, is guilty of a felony for

1 recording the Notice of Default with a false instrument according to California Penal
 2 Code §115. Since Defendants have violated a statute, the failure of them to exercise
 3 due care will be presumed.

4 42. Furthermore, This defendant did not adhere to the mandates laid out by congress
 5 before a foreclosure can be considered duly perfected. The Notice of Default states:

6
 7 "That by reason thereof, the present beneficiary under such deed of trust, has
 8 ***executed and delivered to said agent, a written Declaration of Default and***
 9 ***Demand for same, and has deposited with said agent such Deed of Trust***
 10 ***and all documents evidencing obligations secured thereby,*** and has
 11 declared and does hereby declare all sums secured thereby immediately due
 12 and payable and has elected and does hereby elect to cause the trust property
 13 to be sold to satisfy the obligations secured thereby."

14 However, Defendants do not have the Deed of Trust, nor do they provide any
 15 documents evidencing obligations secured thereby. For the aforementioned reasons, the
 16 Notice of Default will be void as a matter of law and Defendants recorded a false
 17 document.

18 **III.**
 19 **THIRD CAUSE OF ACTION**
 20 **FOR INTENTIONAL MISREPRESENTATION**
 21 **(Against all Defendants)**

22 43. Plaintiff repeats and re-alleges Paragraphs 1 through 42 as though fully set forth herein.

23 44. Plaintiff is informed and believe that the representation on the Deed of Trust and

24 Notice of Default was a false intentional representation in the following particulars:

25 [A] Defendant BOFA knew Defendant QUALITY was not authorized to
 26 commence the foreclosure process by executing a Notice of Default and it was made
 27 for the sole purpose of inducing reliance and confusing Plaintiffs.

28 [B] At the time Defendant QUALITY executed the Notice of Default they knew

1 the required Declaration of Due Diligence was false and for the sole purpose of
 2 inducing reliance and confusing Plaintiffs. Defendants also recorded a document they
 3 knew was false.

4 [C] Defendant QUALITY was not entitled to the payments and authorized to
 5 start the foreclosure process since there was never a recorded assignment from.
 6

7
 8 **IV.**

9 **FOURTH CAUSE OF ACTION**
 10 **VIOLATION OF CALIFORNIA CIVIL CODE §2923.6**
 11 **(As Against All Defendants)**

12 45. Plaintiff re-alleges and incorporates by reference the above paragraphs 1 through 44 as
 13 though set forth fully herein.

14 46. Defendants' Pooling and Servicing Agreement (hereinafter "PSA") contains a duty to
 15 maximize net present value to its investors and related parties.

16 47. *California Civil Code* §2923.6 broadens and extends this PSA duty by providing that
 17 the mortgagee, beneficiary, or authorized agent offer the borrower a loan modification
 18 or workout plan if such a modification or plan is consistent with its contractual or other
 19 authority.
 20

21 48. Pursuant to *California Civil Code* §2923.6(a), a servicer acts in the best interest of all
 22 parties if it agrees to or implements a loan modification where the (1) loan is in
 23 payment default, and (2) anticipated recovery under the loan modification or workout
 24 plan exceeds the anticipated recovery through foreclosure on a net present value basis.
 25

26 49. Plaintiff's loan is presently in an uncertain state and The Joint Economic Committee of
 27 Congress estimated in June 2007 that the average foreclosure results in \$77, 935.00 in
 28 costs to the homeowner, lender, local government, and neighbors.

1 50. Of the \$77,935.00 in foreclosure costs, the Joint Economic Committee of Congress
2 estimates that the lender will suffer \$50,000.00 in costs in conducting a non-judicial
3 foreclosure on the property, maintaining, rehabilitating, insuring, and reselling the
4 property to a third party. Freddie Mac places this loss higher at \$58,759.00.

5 51. Pursuant to *California Civil Code* §2823.6, Plaintiffs invoke the remedies embodied in
6 the aforementioned agreement and/or codes with a willingness to execute a
7 modification of their loan. This option was not explored with the Plaintiffs.
8

9 52. Furthermore, according to Anthony E. Dimock v. Emerald Properties, LLC. et al. (81
10 Cal.App.4th 868, 97 Cal.Rptr.2d 255), Plaintiff was not required to rely upon equity in
11 attacking the deed and therefore he was not required to meet any of the burdens
12 imposed when, as a matter of equity, a party wishes to set aside a voidable deed. (See
13 Little v. CFS Service Corp., supra, 188 Cal.App.3d at p. 1359.) In particular, Plaintiff
14 is not required to tender any of the amounts due under the note.
15

16 53. Also in Scott v. Security Title Ins. & Guar. Co. (1937) 9 Cal.2d 606, 610-611, the court
17 stated that "It is true that if the sale had been totally void their tender obligation would
18 have been excused." A "void sale" according to 12 Thompson on Real Estate, Thomas
19 Editions §101.0(c)(2)(i) can be set aside even though the property passed into the
20 hands of a bona fide purchaser. Furthermore, the section states that most of the cases
21 in which a sale to a bona fide purchaser was set aside involved *sales by trustees or*
22 *mortgagees who lacked the power to sell.*
23

24 54. Plaintiff is suing for a legal remedy and therefore, there is no requirement of tender. In
25 addition the lack of power of sale rendered the sale void which would excuse
26 Plaintiff's tender obligation.
27
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V.

FIFTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA CIVIL CODE §1572
(As to All Defendants)

55. Plaintiff re-alleges and incorporates by reference the above paragraphs 1 through 54 as though set forth fully herein.

56. Plaintiff is an unsophisticated customer whose reliance upon Defendants was reasonable and consistent with the Congressional intent and purpose of *California Civil Code* §1572 enacted in 1872 and designed to assist and protect consumers similarly situated as Plaintiff in this action.

57. Defendants' misrepresentations, failures to disclose, and failure to assign as described above were made with the intent to induce Plaintiff to obligate himself in reliance on the integrity of Defendants and/or Defendants' predecessors.

58. As an unsophisticated customer, Plaintiff's could not have discovered the true nature of the material facts on their own.

59. Plaintiff was ignorant of the facts which Defendants misrepresented and failed to disclose and their reliance was a substantial factor in causing their harm.

60. As a proximate result of Defendants, Plaintiff has suffered damage in an amount to be determined at trial.

61. The conduct of Defendants as mentioned above was fraudulent within the meaning of *California Civil Code* §3294(c)(3), and by virtue thereof Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and make an example of the Defendants.

VI.

SIXTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE §17200
(As Against All Defendants)

62. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1 through 61, inclusive, as though set forth fully herein.

63. Plaintiff allege that Defendants' practices are likely to mislead the general public, and therefore, constitute a fraudulent business act of practice within the meaning of *Business and Professions Code* §17200. The Defendants' unfair, unlawful, and fraudulent business practices and false and misleading declaration on the Notice of Default present a continuing threat to members of public in that other consumers will be defrauded into assuming this void Notice of Default is in fact valid. Plaintiffs and other members of the general public have no other adequate remedy of law.

64. Plaintiff alleges that the employees and/or agents of Defendant QUALITY represented that said employees and/or agents had contacted Plaintiff to assess his situation. Defendants recorded a false document known as the Notice of Default with an invalid Declaration. Furthermore, there was never an assignment from Defendants BOFA to QUALITY. Therefore, the Notice of Default is VOID as a matter of law.

65. The harm to Plaintiff and to members of the general public outweighs the utility of Defendants' policy and practices, consequently, constitute an unlawful business act of practice within the meaning of *Business and Professions Code* §17200.

As a result of the aforementioned acts, Plaintiff has lost money or property and suffered injury in fact. Defendants received and continue to hold Plaintiff's money and other members of the public who fell victim to Defendants' scheme.

VII

SEVENTH CAUSE OF ACTION

VIOLATIONS OF FEDERAL TRUTH IN LENDING ACT**(Against Defendants BOFA)**

66. Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1 through 65, inclusive, as though set forth fully herein.

69. Defendants failed to include and disclose certain charges in the finance charge shown on the TIL statement, which charges were imposed on Plaintiffs incident to the extension of credit to the Plaintiffs and were required to be disclosed pursuant to 15 USC sec. 1605 and Regulation Z sec. 226.4, thus resulting in an improper disclosure of finance charges in violation of 15 USC sec. 1601 et seq., Regulation Z sec. 226.18(d). Such undisclosed charges include a sum identified on the Settlement Statement listing the amount financed which is different from the sum listed on the original Note.

70. By calculating the annual percentage rate ("APR") based upon improperly calculated and disclosed amounts, Defendants are in violation of 15 USC sec. 1601 et seq., Regulation Z sec. 226.18(c), 18(d) and 22.

71. Defendants' failure to provide the required disclosures provides Plaintiff's with the right to rescind the transaction, and Plaintiffs, through this public Complaint which is intended to be construed, for purposes of this claim, as a form Notice of Rescission, hereby elect to rescind the transaction.

The aforementioned acts of Defendants, and each of them, were motivated by oppression, fraud, malice in that Defendants, and each of them, by their respective acts, omissions, nonfeasance, misfeasance and/or malfeasance executed an invalid

1 foreclosure sale of the Plaintiff's Subject Property, in order to deny Plaintiff of his
2 rights of possession and ownership, whereupon, the Foreclosure was defective as
3 discussed above due to the VOID Notice of Default and as such the Property must be
4 restored to Plaintiff or alternatively Plaintiff is entitled to the value of thereof.

5 **WHEREFORE**, Plaintiffs having set forth the claims for relief against Defendants,
6 respectfully prays that this Court grant the following relief against the Defendants:
7

- 8 1. Actual Economic and Non-Economic Damages;
- 9 2. For a declaration of the rights and duties of the parties relative to Plaintiff's Home
10 to determine the actual status and validity of the loan, Deed of Trust, and Notice of
11 Default.
- 12 3. For a preliminary injunction and permanent injunction enjoining all Defendants,
13 their agents, assigns, and all person acting under, for, or in concert with them, from
14 foreclosing on Plaintiff's Home or from conducting a trustee's sale or causing a trustee's
15 sale to be conducted relative to Plaintiff's Home;
- 16 4. Cancellation of any future sale and restitution of the home to the Plaintiffs;
- 17 5. For damages as provided by statute;
- 18 6. For an Order enjoining Defendants from continuing to violate the statutes alleged
19 herein;
- 20 7. For a restraining order preventing Defendants and his, hers, or its agents,
21 employees, officers, attorneys, and representatives from engaging in or performing any of
22 the following acts: (i) offering, or advertising this property for sale and (ii) attempting to
23 transfer title to this property and or (iii) holding any auction therefore;
- 24 8. For punitive damages;
- 25
- 26
- 27
- 28

1 9. Costs and reasonable attorney's fees pursuant to *California Civil Code* §1717,
2 §1788.30(b), §1788.30(c);

3 10. For such other and further relief as the court may deem just and proper.
4

5
6 Dated: 05/25/2011

7 By: Rocio Pineda
8 Rocio Pineda, Plaintiff in Pro Per
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VERIFICATION

1
2 I, Rocio Pineda , am the Plaintiff in the above entitled action. I have read the foregoing
3 complaint and know the contents thereof. The same is true of my own knowledge, except as to
4 those matters which are therein alleged on information and belief, and as to those matters, I
5 believe it to be true.

6 I declare under penalty of perjury, under the laws of the State of California, that the
7 foregoing true and correct and that this declaration was executed in Riverside, County of
8 Riverside, State of California.
9

10
11 Dated: 05/25/2011

By: Rocio Pineda
Rocio Pineda, Declarant
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Virginia A. Phillips and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV11- 972 VAP (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☒ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Rocio Pineda	DEFENDANTS Banks of America, N.A, formally doing business as Greenpoint Mortgage Funding; Quality Loan Service Corp; and Does 1-50
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Rocio Pineda 7946 Drake Street (562) 965-2034 Fontana, CA 92336 Pro Per Plaintiff	Attorneys (If Known) David C. Scott, Esq. (619) 685-4800 McCarthy & Holthus, LLP Attorney for 1440 Fourth Avenue Bank of America, N.A; Quality Loan Service San Diego CA 92101

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:47%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)
☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. § 1331 - Plaintiffs' claims arise under the laws of the United States.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: _____

ED CV 11 - 00972

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VAP (5B)

JUN 20 2011

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Bank of America, N.A. - Texas; Quality Loan Service Corp. - San Diego County

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
San Bernardino	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date 6/20/11

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))